

# California Department of Corrections

## Financial Information Memo

<b>SUBJECT:</b>	<b>FIM NUMBER:</b>
PAYMENTS TO SEPARATING EMPLOYEES	<b>2001-01</b>
<b>REFERENCES:</b>	<b>DATE:</b>
Labor Code Section 220 SB 2410, Chapter 885/00	January 24, 2001

### **DISTRIBUTION**

Associate Wardens, Business Services  
Institution Personnel Officers  
Headquarters Personnel Officer  
Regional Accounting Office Managers  
Headquarters Accounting Services Section  
Inmate Welfare Fund/Trust Accounting Section

### **PURPOSE**

This Financial Information Memo (FIM) identifies procedures to comply with sections of the Labor Code that will apply to the State of California as an employer beginning on January 1, 2001.

### **BACKGROUND**

Assembly Bill 2410, Chapter 885/00 removed the exemption for the State of California from the Labor Code sections pertaining to timing of distribution of the final payroll warrant upon permanent separation from employment. Departments must provide employees with their final payroll warrant on the date of separation if given a minimum of 72 hours notice prior to separation, or within 72 hours of separation if that notice was not provided. This applies to permanent separations from employment with the State, not temporary separations such as medical leave of absence. Personnel Management Liaison Memo (PML) 2000-071 summarizes affected Labor Code sections. Additionally, a memorandum is forthcoming from the Personnel Services Section that will provide further information.

### **DISCUSSION**

Personnel Offices must process payroll-related transactions in time for the final payroll warrants to be available on the separation date of the employee, and at the normal place of distribution for that employee. An exception to this is in instances in which an employee is separated for reasons other than voluntary. For example an employee may be served official Adverse Action dismissal papers at his or her home. In such instances, the final pay warrant to this employee must be distributed to the employee at his or her home. These transactions include the final pay period salary, any lump sum payments due and any other salary-related payments an employee may be owed. Any previous salary overpayments not yet repaid should be deducted from the final pay.

# California Department of Corrections

## Financial Information Memo

Payments to Separating Employees  
Page 2

In instances that the 72 hour requirement cannot be met via the State Controller's Office system, Institution Personnel Offices must request Office Revolving Fund checks from their respective RAO, or if time does not allow, shall make these payments through a salary advance check issued from check stock available at the Institution for that purpose. Headquarters Personnel Office must coordinate with Headquarters Accounting Services Section (HASS) to get Office Revolving Fund (ORF) checks issued for this purpose. A copy of Chapter 885 and PML 2000-071 are attached for your information.

### **ACTION REQUIRED**

The Labor Code provides fairly severe penalties for willful failure to make the required payments. These penalties include holding any person, agent, manager, superintendent or officer of the State guilty of a misdemeanor for violations of the wage payment requirements; the State being held liable for costs relating to the service of pleadings brought by the Labor Commissioner to recoup unpaid wages; and in certain instances, the State being held liable for treble damages. Personnel Offices must give priority to processing payroll for employees permanently separating from State service. All Accounting Offices must provide timely response for requests for ORF checks for this purpose.

If you have further questions regarding this FIM, please contact William B. Dougherty, Chief, Accounting Management Branch at (916) 324-6525 or CALNET 454-6525.

*ORIGINAL SIGNED BY*

WENDY STILL  
Chief Financial Officer  
Office of Financial Management

Attachments

cc: Teresa Rocha, Chief Deputy Director  
Deputy Directors  
Assistant Deputy Directors  
Institutional Regional Administrators  
Health Care Services Regional Administrator  
Parole Regional Administrators  
Wardens  
Branch Chiefs  
William B. Dougherty, Accounting Management Branch  
Paul Thatcher, Accounting Policies and Procedures Section

# California Department of Corrections Financial Information Memo

## Payments to Separating Employees Attachment

BILL NUMBER: AB 2410      CHAPTERED  
BILL TEXT

CHAPTER      885  
FILED WITH SECRETARY OF STATE      SEPTEMBER 29, 2000  
APPROVED BY GOVERNOR      SEPTEMBER 28, 2000  
PASSED THE ASSEMBLY      AUGUST 31, 2000  
PASSED THE SENATE      AUGUST 30, 2000  
AMENDED IN SENATE      AUGUST 25, 2000  
AMENDED IN ASSEMBLY      APRIL 25, 2000

INTRODUCED BY      Assembly Member Machado

FEBRUARY 24, 2000

An act to amend Section 220 of the Labor Code, relating to employment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2410, Machado. Wages: state employees.

Existing law prescribes requirements respecting employer payment of wages, including timely payment thereof, that are applicable to all employers, other than the state, counties, cities, and other municipal corporations. These provisions of existing law also prescribe penalties for violations, make certain violations misdemeanors, and provide for enforcement by the Division of Labor Standards of the Department of Industrial Relations and by district attorneys and city prosecutors, as specified.

This bill would delete specified exemptions for the state as an employer from these provisions.

### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 220 of the Labor Code is amended to read:

220. (a) Sections 201.5, 201.7, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

# California Department of Corrections

## Financial Information Memo

Payments to Separating Employees  
Attachment

State of California

### MEMORANDUM

REFERENCE CODE: 2000-071

DATE: December 13, 2000

TO: Accounting Officers  
Employee Relations Officers  
Personnel Officers  
Personnel Transactions Supervisors

FROM: Department of Personnel Administration  
Labor Relations Division

SUBJECT: Labor Code Applicable to State Employees

CONTACT: Julie Chapman, Labor Relations Officer  
(916) 324-9420, CALNET 8-454-9420  
FAX: (916) 322-0765  
Email: JulieChapman@dpa.ca.gov

The recent passage of legislative bill AB 2410 (attachment A), amends Section 220 of the Labor Code to remove the State employer's exemption to the Labor Code provisions applicable to the payment of wages and the resolution of wage disputes, effective January 1, 2001.

For your convenience, attached to this memorandum are the Labor Codes (attachment B), which are summarized below.

Section 201: When an employee is discharged (separated from State service other than voluntary), the wages earned must be paid immediately. This includes the cashout of benefits (i.e., paid leave time on the books).

Affected Separation Transaction Codes:

S02, S04, S30, S31, S32, S33, S40, S41, S80, S90 (if no mandatory return rights to another position) and S99

Section 202: When an employee voluntarily resigns from their employment with the State, their wages must be paid not later than 72 hours from the date of separation. However, if the employee provides the employer at least 72 hours notice of their impending separation from State service, they are entitled to their wages at the time of separation. This includes the cashout of benefits (i.e., paid leave time on the books).

This 72 hours is a continuous period that includes weekends and holidays. For example, if an employee resigns without prior notice on a Friday at 5:00 p.m., the employer has until 5:00 p.m. the following Monday to deliver wages due.

# California Department of Corrections

## Financial Information Memo

Affected Separation Transaction Codes:  
S01, S03, S05, S20, S21, S70

It is unclear at this time the affect of this section on the Government Code 19996.2, Absent Without Leave (AWOL), separations as this ground has been untested.

Section 203: Employer must pay penalties of up to thirty (30) days of continued wages for failure to make timely payment of earned and unpaid wages pursuant to Section 201 and Section 202 above. If an employee avoids payment or refuses to receive payment, they are not entitled to any benefit under this section.

Section 204.2: This section does not apply to State employment. This addresses overtime payment for employees excluded from the Fair Labor Standards Act (FLSA). However, departments need to be aware that this section may apply to the employees of vendors with which you contract for services if the employees are covered by the FLSA.

Section 204.3: This section does not apply to State employment. Subsection (h) states that this section does not apply to employees exempt from the overtime provisions of the California wage orders. All state employees fall under this exemption. Once again, departments need to be aware that this section may apply to the employees of vendors with which you contract for services if the employees are covered by the overtime provisions of the California wage orders.

Section 206: If the wages owed are being disputed, the employer must pay all wages known to be owed. The employee can seek remedies through the Labor Commissioner.

If the Labor Commissioner finds validity in an employees claim for wages, the claim is payable within 10 days after receipt of the notice to the employer. If the employer fails to pay wages due within 10 days, the employer pays treble damages.

Section 206.5: Employer must refrain from requiring an employee to execute a release of any claim or right to unpaid wages.

Section 207: The employer must post notices informing employees of the regular paydays and the time and place of payment. Attachment C provides an example of the information, which must be posted. This information can be found in the Payroll and Procedures Manual, Section D200.

Section 208: The employer must make payment to discharged (separated from State service other than voluntary) employees at the place of their discharge. The employer must make payment to employees who resign at the departmental office within the county that they work.

Section 209: This section does not apply to State employment. The State has no strike provisions in the memoranda of understanding.

Section 210: This section does not apply to the State employment. Departments need to be aware that this section may apply to the employees of vendors with which you contract for services if the employees are covered by this provision.

Section 211: This provision makes the State liable for costs relating to the service of pleadings brought by the Labor Commissioner to recoup unpaid wages.

Section 215: This provision holds any person, agent, manager; superintendent or officer of the State guilty of a misdemeanor for violations of the wage payment requirements described in Section 207 and Section 208.

# California Department of Corrections

## Financial Information Memo

Section 216: This provision holds any person, agent, manager, superintendent or officer of the State guilty of a misdemeanor for willfully refusing to pay wages, falsely denying the amount of wages owed, or harassing anyone owed wages.

Section 217: This section invests the Division of Labor Enforcement with the authority to seek penalties against other State departments for wage payment violations.

Section 218: Permits district attorneys or other local prosecutors to prosecute actions against the State for wage payment violations.

Section 218.5: Allows for the recovery of reasonable attorney's fees and costs against the State for actions brought for non-payment of wages.

Section 219: An employer is not limited or prohibited from making payments of wages at more frequent intervals, in greater amounts, or in full when or before due. No section of this article can in any way be contravened or set aside by a private agreement.

If a department discovers an overpayment following the payment of wages pursuant to the above-mentioned labor codes, the department can pursue repayment through the usual process.

For clarification, attachment B only includes the California Labor Law sections that are new to the State of California as an employer. The Labor Law sections that have applied to the State employer in the past continue but are not included in the attachment.

Each department needs to carefully examine the processes which have been used in the past to process payment of wages and make any necessary changes to comply with the above labor law.

Gloria Moore Andrews  
Chief of Labor Relations

Attachments will be distributed via mail.